

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

VINCENZO VARRIALE and CATERINA
VARRIALE,

Plaintiffs

vs.

FIDELITY NATIONAL INDEMNITY
INSURANCE COMPANY,

Defendant.

CIVIL ACTION NO.:

COMPLAINT

COMES NOW the Plaintiffs VINCENZO VARRIALE and CATERINA VARRIALE (“Plaintiffs”), by and through their undersigned counsel, and hereby sue the Defendant, FIDELITY NATIONAL INDEMNITY INSURANCE COMPANY, and state:

1. This is an action for damages for breach of a flood insurance contract issued to Plaintiffs by Defendant.

2. This Court has jurisdiction of this action pursuant to the National Flood Insurance Act, specifically, 42 U.S.C. § 4001, *et seq.*

3. At all times material hereto, Plaintiffs were and are New Jersey residents and the owners of the property that was located at 1 Wilkins Road, Toms River, Ocean County, New Jersey 08753 (the “Property”).

4. At all times material hereto, Defendant was and is a foreign corporation, authorized to and doing business as an insurance company within the State of New Jersey.

5. Defendant issued policies of flood insurance to Plaintiffs pursuant to the National Flood Insurance Program, with the following policy number: 29 1150749961 01. This policy insured the property owned by Plaintiffs and located at 1 Wilkins Road, Toms River, Ocean County, New Jersey 08753 (the “Property”).

6. The flood insurance policy issued to Plaintiffs by Defendant had a policy period of November 6, 2011 to November 6, 2012.

7. On or about October 29, 2012, at a time when the above described policy of flood insurance was in full force and effect, the property insured by Defendant suffered flood damages as a result of Hurricane Sandy.

8. The cost to repair the damage to the insured property caused by flood and the cost to replace the insured property that was damaged by flood exceeds the limits of coverage provided by the subject flood insurance policy.

9. Plaintiffs promptly and properly submitted claims to Defendant for the losses and damages that resulted from the flood and further properly and promptly submitted a Sworn Statement in Proof of Loss as required by the policy. Following receipt of the Sworn Statement in Proof of Loss, Defendant acknowledged receipt of the Proof of Loss, but denied Plaintiffs' claim.

10. On October 27, 2014, Plaintiffs submitted a Sworn Statement in Proof of Loss to Defendant.

11. Defendant has breached the terms of the flood insurance policy by failing and refusing to pay all amounts due to Plaintiffs pursuant to the terms of the subject flood insurance policy.

12. Plaintiffs have complied with all conditions precedent to the bringing of this action or, in the alternative, Defendant has waived same.

13. As a result of Defendant's breach, Plaintiffs have suffered damages, including the amounts to which they are legally entitled to recover under the terms of the subject flood insurance policy.

WHEREFORE, Plaintiffs, VINCENZO VARRIALE and CATERINA VARRIALE, sue the Defendant, FIDELITY NATIONAL INDEMNITY INSURANCE COMPANY, and request the following relief:

1. Entry of judgment in their favor for all amounts to which they are entitled under the terms of the subject flood insurance policy;
2. An award of the costs of this action: and
3. Such other and further relief as this Court deems just and appropriate.

MERLIN LAW GROUP, P.A.

Date: March 4, 2015

By: /s/ Charles R. Mathis IV
Charles R. Mathis IV, Esq.
Robert T. Trautmann, Esq.
125 Half Mile Road, Suite 200
Red Bank, NJ 07701
732-933-2700
732-933-2702 (Fax)
cmathis@merlinlawgroup.com
rtrautmann@merlinlawgroup.com
Attorneys for Plaintiffs